

In re Application of: Ernest GRIMBERG  
Serial No.: 10/567,438  
Filed: February 7, 2006  
Office Action Mailing Date: November 4, 2009

Examiner: Yara B. GREEN  
Group Art Unit: 2884  
Attorney Docket: 31322  
Confirmation No.: 5035

### **REMARKS**

In the Office Action dated November 4, 2009, the Examiner refused to accept the Declaration under 37 C.F.R. §1.131 as showing the making of the invention prior to the effective filing date of the primary reference Allen, US Patent No. 7,030,378, because the Declaration did not explicitly state that the activities proving diligence were within a WTO country.

By this response, Applicant is resubmitting the Declaration with explicit language to that effect.

In light of this resubmission, Applicant reiterates the Remarks previously made in the submission filed on August 18, 2009.

Reconsideration of the above-identified Application in view of the amendments above and the remarks following is respectfully requested.

Claims 62-72 and 74-81 are in this Application, of which claims 62, 74 and 79 are in independent form. Claims 62-72 and 74-81 have been rejected under 35 U.S.C. §103.

### **35 U.S.C. §103 Rejections**

The Examiner rejected claims 62-64, 66, 67 and 71-73 under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 7,030,378 by Allen et al. (*hereinafter* Allen). The Examiner rejected claims 65, 68, 69, 74-80, 82 and 83 under 35 U.S.C. §103(a) as being unpatentable over Allen in view of EP Patent No. 0837600 by Tsuchimoto et al. (*hereinafter* Tsuchimoto). The Examiner rejected claim 70 under 35 U.S.C. §103(a) as being unpatentable over Allen in view of Tsuchimoto and further in view of US Patent No. 4,907,895 by Everest (*hereinafter* Everest). The Examiner rejected claim 81 under 35 U.S.C. §103(a) as being unpatentable over Allen in view of Tsuchimoto in view of US Patent No. 5,925,875 by Frey (*hereinafter* Frey).

Withdrawal of the above rejections is respectfully requested. The basis for this withdrawal request is that the primary reference, Allen, in all the above rejections, is not prior art in light of the Declaration under 37 C.F.R. §1.131 submitted herewith.

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The filing date for US Patent No. 7,030,378 by Allen et al. is August 5, 2003.

Israeli Patent Application No. 157344, which is the priority document for the instant Application, was filed on August 11, 2003, six (6) days subsequent to the Allen et al. filing date.

In the Declaration under 37 C.F.R. §1.131 by Mr. Geoff MELNICK, submitted herewith, it is established that preparation of the priority application was diligently pursued by Mr. Geoff MELNICK in Israel, a WTO member country, from just prior to August 5, 2003 and until August 11, 2003, when the Israeli priority application was filed.

It is therefore submitted that Allen is not prior art relative to the instant Application, and thus claims 62-72 and 74-81 are patentable.

In view of the above remarks it is respectfully submitted that claims 62-72 and 74-81 are now in condition for allowance. A prompt Notice of Allowance is respectfully and earnestly solicited.

Respectfully submitted,



Martin D. Moynihan  
Registration No. 40,338

Date: December 17, 2009

**Enclosures:**

- Newly-Executed Declaration under 37 C.F.R. §1.131 of Mr. Geoff MELNICK;  
and
- Exhibits A-C